

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 09-CR-043-SPF
)	
LINDSEY KENT SPRINGER,)	
OSCAR AMOS STILLEY,)	
)	
Defendants.)	

**UNITED STATES' RESPONSE IN OPPOSITION TO
DEFENDANT SPRINGER'S MOTION AND AMENDED
MOTION TO RECONSIDER RELEASE ON BOND AND
FOR EVIDENTIARY HEARING (DOC. NOS. 368 AND 371)**

The United States of America, by and through its attorneys, Thomas Scott Woodward, United States Attorney for the Northern District of Oklahoma, and Charles A. O'Reilly, Special Assistant United States Attorney, hereby responds in opposition to Defendant Springer's Motion to Reconsider Release on Bond and for Evidentiary Hearing (doc. no. 368) (hereinafter Motion to Reconsider), and Amended Motion to Reconsider and for Evidentiary hearing (doc. no. 371) (hereinafter Amended Motion to Reconsider). Defendant appears to fail to understand the significance of the changed circumstances resulting from his being sentenced to a significant term of imprisonment. Pursuant to

Title 18, United States Code Section 3143(b), “the judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the judicial officer finds -- by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released,” and that the appeal “raises a substantial question of law or fact likely to result in” reversal, new trial, or a term of imprisonment less than the defendant will have served. This Court has already determined that Defendant fails on each prong of this test. Order (doc. no. 363).

Defendant keeps asking for the same relief. As this Court previously stated in addressing Defendant’s repetitious motions, “[t]he court is not required to continually interpret, restate and clarify previously rejected arguments in order to consider and ultimately reject them again after they have been repackaged by the defendants into yet more motions.” Order addressing motions doc. nos. 280, 282, 284, 306 and 309 (doc. no. 312). The United States has responded previously to Defendant’s multiple motions for release pending appeal, both here and before the Tenth Circuit Court of Appeals. The District Court appropriately considered Defendant’s assertions, correctly determined that Defendant failed on each prong of 18 U.S.C. §3143(b), and found that Defendant should be detained. Doc. no. 363. Defendant appealed this decision, and the appellate court upheld the District Court’s determination.

Defendant's latest motions simply repeat his claim that he is not a flight risk. The Court previously considered and rejected this claim. Also, Defendant incorrectly states that the District Court "directed springer [sic] be housed close to Tulsa in it's [sic] order of April 23, 2010." Doc. no. 371 at 1. Contrary to Defendant's recollection, at the sentencing hearing, the Court stated, "[t]he judgment and sentence will state that the Court recommends that the defendant be designated to the federal penal facility closest to Tulsa, Oklahoma, for which his security designation qualifies him -- or his security classification qualifies him." Transcript of Sentencing Hearing, 67:4-8.

Less than one month ago, this Court denied Defendant Springer's Amended Motion for Release and Stay of Execution of Judgment and for Bond Pending Appeal, filed on May 3, 2010 (doc. no. 359). In the Court's order dated May 7, 2010, the Court clearly stated that Defendant "Springer's motion fails on both of the principal prongs of the § 3143 test." Order (doc. no. 363).

Defendant "now requests an evidentiary hearing on whether he is a flight risk." Motion to Reconsider, p. 3. Defendant asserts without explanation that he was "unable at that time to present sufficient evidence he is not a flight risk." *Id.* However, Defendant cannot establish by clear and convincing evidence that he is not a flight risk. As the Court stated in sentencing the defendants, "I have tried to find even a thin strand of truth or integrity to your conduct or your way of life. It is not there." Transcript of Sentencing Hearing, 58:4-6. Furthermore, even were Defendant able to establish by clear and

convincing evidence that he was not a flight risk (which he cannot), Defendant fails with respect to the two other prongs required for release that the Court has already considered and rejected: safety of the community and likely success on the merits. Therefore, an evidentiary hearing on flight risk would be an exercise in futility.

The United States has previously addressed Defendant's assertions that he should be released on bond pending appeal, and incorporates its previous pleadings as though restated herein. The Courts have previously rejected Defendant's repeated requests. Therefore, the United States requests that the Court deny both Defendant Springer's Motion to Reconsider Release on Bond and for Evidentiary Hearing and Defendant Springer's Amended Motion to Reconsider and for Evidentiary hearing. The United States is prepared to submit additional briefing should the Court determine such briefing would be of assistance.

Respectfully submitted,

THOMAS SCOTT WOODWARD
UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of June 2010, I served the foregoing document by United States Postal Mail, and electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing, to the following ECF registrants:

Lindsey Kent Springer
Defendant
c/o David L. Moss Criminal Justice Center
300 N. Denver Ave Tulsa, OK 74103
Inmate Number: 1189797

Oscar Amos Stilley
Defendant
c/o David L. Moss Criminal Justice Center
300 N. Denver Ave Tulsa, OK 74103
Inmate Number: 1189798.

/s Charles A. O'Reilly

Charles A. O'Reilly
Special Assistant United States Attorney